

Abstract – Right to be forgotten as part of personality rights

Right to be forgotten (or also right to oblivion) is a new phenomenon formed by the Court of Justice of the European Union in 2014 in the case of Google Spain. The right was then enacted as part of the General Data Protection Regulation and consequently became applicable throughout the EU and EEA since 25 May 2018.

This thesis goes beyond the scope of personal data protection (under the GDPR) and considers whether the right to be forgotten forms a part of the personality and the right to privacy as such, thus being protected as a fundamental human right. On this basis, it also considers whether not only individuals but also legal entities could benefit from the right to be forgotten. These questions are assessed in view of the conflict of fundamental human rights and their proportionality test – right to privacy (also relying on and stemming from human inviolability and dignity) as balanced against other human rights, in particular, freedom to speech and freedom of information that need to be evaluated when performing the right to be forgotten. It is also necessary to consider the purpose and fundamental principles of privacy and its protection and the purpose of forgetting and its meaning for individuals and society as a whole.

All these questions are dealt with in view of the legal nature of (personal) data and new technologies processing such data on a daily basis. Modern technologies may reach the limits stemming from their incapability to forget (as the machines, unlike humans, never forget). Moreover, data is a “*new oil*” and its value is priceless while being crucial for further technology development. By way of example, any further development of artificial intelligence may be especially challenging for future shapes of privacy and forgetting (as applicable under the right to be forgotten).

The thesis also deals with the consequences of infringement of this right, mainly focusing on damages that are also specifically governed under the GDPR for the area of personal data protection.

Key words: right to be forgotten, right to oblivion, erasure, data, gdpr, personal data, privacy, personality, technology